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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

LOUJAIN HATHLOUL ALHATHLOUL,

Plaintiff,

v.

DARKMATTER GROUP, MARC BAIER,
RYAN ADAMS, and DANIEL GERICKE,

Defendants.

Case No. 3:21-cv-01787-IM

**DEFENDANTS' NOTICE OF
SUPPLEMENTAL AUTHORITY IN
SUPPORT OF MOTION TO DISMISS
FIRST AMENDED COMPLAINT**

In support of their motion to dismiss, Defendants submit *Briskin v. Shopify, Inc.*, No. 22-15815 (9th Cir. Nov. 28, 2023) (Exhibit A).¹ A California resident sued Shopify, “a web-based payment processing platform,” under “privacy and unfair competition laws” because it allegedly concealed that it was “extracting and retaining” consumer data and “tracking” customers. Op. 4-5. In holding that Shopify was not subject to personal jurisdiction in California, the court emphasized multiple relevant principles:

First, while “a rigid analytical distinction between purposeful direction and purposeful availment is not always helpful or appropriate,” claims that “sound classically in tort” “are most naturally analyzed under the purposeful direction framework.” Op. 10 (citing *Davis v. Cranfield Aerospace Sols., Ltd.*, 71 F.4th 1154, 1162 (9th Cir. 2023)).

Second, contacts do not arise out of or relate to a plaintiff’s claims unless they “cause[d] [plaintiff’s] harm” or have “a strong, direct connection” to the claims. Op. 13-14. The “extraction and processing of [plaintiff’s] personal information” had “nothing to do with” defendant’s general business contacts. Op. 15. Even if such contacts “set the wheels in motion for [defendant] to eventually inflict privacy-related harm,” that “butterfly effect theory of specific jurisdiction would be far too expansive to satisfy due process.” *Id.*

Third, plaintiff’s “California connection” did *not* “matter to the analysis.” Op. 15-16. When a plaintiff’s injuries are “entirely personal to [her] and would follow [her] wherever [she] might choose to live or travel,” there is no express aiming even if defendants allegedly directed conduct at someone whom they “knew had [forum] connections.” Op. 18-19 (quoting *Picot v.*

¹ Pursuant to FRAP 28(j), Defendants limit this notice to 350 words, but will file a supplemental brief at the Court’s request.

Weston, 780 F.3d 1206, 1215 (9th Cir. 2015); *Walden v. Fiore*, 571 U.S. 277, 289 (2014)); *see also* Op. 4 (no express aiming when defendants “indifferent to the location” of plaintiff).

Finally, jurisdictional discovery is not appropriate based on “[a] mere hunch that [it] might yield jurisdictionally relevant facts”—particularly when “[t]he problems with [plaintiff’s] theory of personal jurisdiction are endemic to the nature of [her] claims.” Op. 33-34.

Respectfully submitted,

Dated: November 30, 2023

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